

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

ALJAWON DAWAYNE MILES,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 3:18-CV-973-WHA
)	
TERRANCE WALKER,)	
)	
Defendant.)	

MEMORANDUM OPINION and ORDER

Now pending before the Court is Plaintiff's pro se notice of appeal (Doc. 40) which the Court construes as containing a motion for leave to appeal *in forma pauperis* and a motion for certificate of appealability. For the reasons set forth below, the Court concludes that Plaintiff's motions are due to be DENIED.

28 U.S.C. § 1915(a) provides that "[a]n appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith." In making this determination as to good faith, the Court must use an objective standard, such as whether the appeal is "frivolous," *Coppedge v. United States*, 369 U.S. 438, 445 (1962), or "has no substantive merit," *United States v. Bottoson*, 644 F.2d 1174, 1176 (5th Cir. Unit B May 1981) (per curiam). Applying these standards, the Court is of the opinion, for the reasons stated in the Order (Doc. 38) overruling Plaintiff's Objections, and the Recommendation of the Magistrate Judge (Doc. 35) which was adopted, Plaintiff's appeal is without a legal or factual basis and, accordingly, is frivolous and not taken in good faith. See e.g. *Rudolph v. Allen*, 666 F.2d 519 (11th Cir. 1982).

Accordingly, it is

ORDERED that the appeal in this cause is certified, pursuant to 28 U.S.C. § 1915(a), as not taken in good faith, and the motion for leave to appeal *in forma pauperis* and motion for a certificate of appealability (Doc. 40) are hereby DENIED.

Done, this 7th day of December, 2021.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE